

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

CRIMINAL No. 12-2540 LH

HECTOR MANUEL MARTINEZ-GARCIA,

Defendant.

MEMORANDUM OPINION AND ORDER

THIS MATTER is before the Court on Defendant's *pro se* Motion for Reduction of Sentence Pursuant to 18 U.S.C. § 3582(c)(2) (ECF No. 62), filed March 13, 2015. Counsel for Defendant was appointed on July 9, 2015.

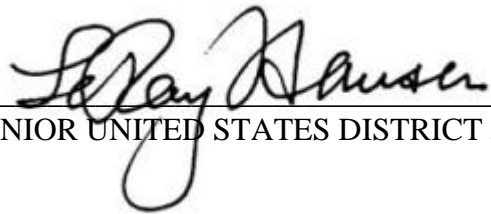
The parties filed their Stipulated Agreement in Petition for Reduced Sentence Under 18 U.S.C. § 3582(c)(2) Regarding Drug Quantity Table (ECF No. 67) on May 25, 2016, in which they agree that the Court does not have authority under 18 U.S.C. § 3582(c)(2) to modify Defendant's sentence. The Court agrees.

Defendant was sentenced to 100 months, pursuant to a Rule 11(c)(1)(C) agreement under the Federal Rules of Criminal Procedure. His sentence was not based upon the drug sentencing guidelines and, in fact, is lower than the sentence guideline range that would apply under the retroactive amendments. Therefore, because Defendant's original sentence was not based on a sentencing range that has subsequently been lowered by the Sentencing Commission, this Court

lacks jurisdiction even to consider his Motion on the merits. *See, e.g., United States v. White*, 765 F.3d 1240, 1246 (10th Cir. 2014).

WHEREFORE,

IT IS HEREBY ORDERED that Defendant's *pro se* Motion for Reduction of Sentence Pursuant to 18 U.S.C. § 3582(c)(2) (ECF No. 62), filed March 13, 2015, is **DISMISSED FOR LACK OF JURISDICTION**.



SENIOR UNITED STATES DISTRICT JUDGE